



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

FEB 14 2014

OFFICE OF
COMPLIANCE AND ENFORCEMENT

**FOR SETTLEMENT PURPOSES ONLY / PRIVILEGED AND CONFIDENTIAL
COMMUNICATION**

Certified Mail Return Receipt Requested

Rod Merrigan
Manager
Land View Inc.
343 North Highway 24
P.O. Box 475
Rupert, Idaho 83350

Re: Notice of Intent to File Administrative Complaint for Violation of the Clean Air Act and
Opportunity to Confer Prior to Filing

Dear Mr. Merrigan:

The U.S. Environmental Protection Agency (EPA) has documented violations of the federal requirements of the Clean Air Act (CAA) for chemical accident prevention under 40 C.F.R. Part 68 at the Land View Inc. (Land View) facility located at 925 Hwy 24 in Rupert, Idaho. The purpose of this notice is to inform you that EPA is prepared to initiate an enforcement action for these violations and to offer you the opportunity to discuss this matter with EPA prior to the filing of a complaint.

Section 113(d)(1) of CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 authorize EPA to assess administrative penalties for violations of Section 112(r) of CAA of up to \$37,500 per day of violation. EPA uses the factors spelled out in Section 113 of CAA, along with the EPA's *Combined Enforcement Policy for Section 112(r) of the Clean Air Act*, dated June 2012 (Combined Enforcement Policy), to determine the amount of penalty it will seek in enforcement actions under Section 112(r) of the CAA. It is EPA's view that a total penalty of \$362,700 is an appropriate settlement amount to resolve the alleged violations.

A Summary of the Alleged Violations and Proposed Penalty, which provides information about EPA's allegations in this matter as well as an explanation of EPA's proposed penalty, is enclosed along with a copy of the Combined Enforcement Policy.

In general, EPA favors prefiling discussions, which help ensure that we have all relevant information and may lead to resolution that avoids the time and expense of litigation. If we are able to reach a settlement, we would resolve the case with an administrative consent agreement and final order, and EPA would not file a complaint. Once a consent agreement and final order is signed by all parties, EPA generally issues a press release announcing the settlement.

If Land View and EPA do not reach a settlement **within 90 days of this notice**, EPA will either file an administrative complaint and the case will be assigned to an administrative law judge or refer the matter to the Department of Justice for filing in federal district court. EPA reserves the right to seek the maximum allowable penalty in litigation of this case should Land View and EPA fail to reach a settlement in the time period allotted.

To reach settlement within 90 days, we will need to begin prefilings negotiations within 30 days. If you wish to set up an initial meeting to discuss this matter, please contact Julie Vergeront in the Office of Regional Counsel at (206) 553-1497 **within 14 days of this notice**. EPA is willing to meet with you at our Seattle office or by conference call. If we do not hear from you within 14 days, EPA intends to initiate formal enforcement action unilaterally.

Thank you for your prompt attention to this important matter.

Sincerely,



Kelly McFadden, Manager
Pesticides and Toxics Unit

Enclosures:

1. Summary of Alleged Violations and Proposed Penalty
2. Combined Enforcement Policy